

Case: 6:69-cv-07941-BB

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

**FILED** *kg*  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

10 JUN 14 AM 10:31

STATE OF NEW MEXICO, on the relation of )

The State Engineer, )

Plaintiff, )

v. )

ROMAN ARAGON, et al., )

Defendants. )

No. 69cv 07941-BB

Rio Chama Stream  
System

Section I (mainstream)

CLERK-SANTA FE

**PRO SE PERSONS / SUCCESSORS-IN-INTEREST OF THE ACEQUIA DE CHAMITA REPLY  
TO THE PLAINTIFF STATE OF NEW MEXICO, EX REL. STATE ENGINEER'S MOTION TO  
REQUIRE SHOWING BY SANDIE HOLGUIN, TOMAS MARTINEZ AND JOSE BRANCH  
THAT THEY HAVE AN INTEREST IN LANDS IRRIGATED BY ACEQUIA DE CHAMITA  
AND THAT THEY ARE SUCCESSORS-IN-INTEREST TO PERSONS THAT TIMELY FILED  
OBJECTIONS TO NOTICES AND ORDERS TO SHOW CAUSE (DOC. 9767, FILED  
05/27/2010).**

The *pro se* / successor-in-interest defendant(s) to be in compliance with the State's motion, Document  
9767, Filed 05/27/2010, come now to respond to said Motion:

1. Because the *pro se* parties didn't understand proper procedural conduct they did not reply to the State's motion (Doc. 9606, Filed 02/25/2010) in a timely manner; and thus the Court responded, "No parties filed a timely response opposing the State's motion to limit consideration of objections" (Doc. 9720, Filed 05/21/2010 at 2). The Courts resulting motion was to grant the State's motion to limit consideration of objections to the Special Master's Report to those filed by persons that timely objected to Notices and Orders to Show Cause (*ibid.*).

Case: 6:69-cv-07941-BB

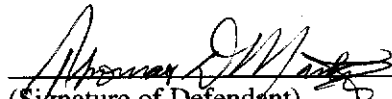
2. While still unsure of this kind of procedural conduct, but in hopes of preventing a similar response in judgment by the Honorable Court, the Defendant parties wish to submit a reply to the State's motion. (Doc. 9767, Filed 05/27/2010).
3. Comes now *pro se* party/ successor-in-interest Thomas Martinez (Doc. 9608, 9682, 9717), to show by deed or otherwise that I have an interest in lands irrigated by the Acequia de Chamita and that I am in fact a successor-in-interest to persons that timely filed objections to the Notices and Orders to Show Cause issued by the Court in 1994-95 (*ibid.* at 3). I am a successor-in-interest to Defendant Kenneth C. Marthey, Subfile No. 258, Doc. No. 3974.16, (Document 9720 Filed 05/21/2010 at 5). Documents of interest follow:

Case: 6:69-cv-07941-BB

1. The Acequia de Chamita is a pre-treaty of Guadalupe Hidalgo (1848) Acequia with an establishment date of August 11, 1598, so stated in its By-laws (Doc. 9717, Filed 05/14/2010, Exhibit I at 405).
2. The Acequia de Chamita is also a political sub-division of The State of New Mexico with recognized sovereignty for Government to Government egalitarian relational status.
3. Because of the Acequia's unique background and history, the successor-in interest has expansive implications far beyond 21<sup>st</sup> Century land/water succession. There are persons on the Acequia de Chamita who draw water that have Heritage Successor-In-Interest to Onate's original settlement at San Gabriel, its Pobladores, and its Acequia.
4. Comes now Parciente Thomas Martinez in testament with genealogical evidence.

Case: 6:69-cv-07941-BB

Respectfully submitted by defendant Thomas Martinez  
(Doc. 9608, 9682, 9717).

  
(Signature of Defendant)

by Thomas Martinez, Date: 6/9/2010

Thomas D. Martinez  
(Printed name of Defendant)

4160 Duquesne Ave #9  
(Street address or P.O. Box)

Culver City CA 90232  
(City, State and Zip Code)

6/5/2010

## *Acequia de Chamita*

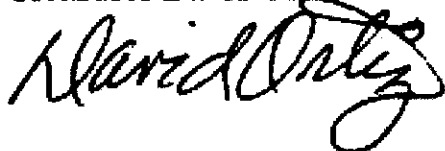
P O Box 930  
San Juan Pueblo,  
New Mexico 87566  
Est. August 11, 1598

I hereby answer the Plaintiffs Motion to show cause and verify that the following parciante, having objected to the Special Masters recommendation of 1600 for the Acequia de Chamita (Don Juan de Onate's Acequia), Thomas Martinez is a member in good standing since he acquired the land with appurtenant water rights on the Acequia de Chamita, having acquired the land with the water rights from Kenneth C. Martbey, who is identified as a person who filed a timely objection (doc.3974.16 sub file 258), filed December 7, 1994. The water rights were transferred on August 24, 2006 with the New Mexico State Engineer Office. A simple phone inquiry to S. M. Wells in the State Engineers Office by the Plaintiff would have verified this information instead of making motions to the court requiring defendants to show cause.

On page 1 of 2, New Mexico Office of the State Engineer, change of ownership of water right (individual), there is a major error, on #4. Place of Use, assigning a 1724 Priority Date.

Thomas Martinez Map 22, Tract 2,3,4 Sub file 255, 258,259,274  
4160 Duquesne Ave, #4  
Culver City, California 90232

Acequia de Chamita Commisaioner  
Treasurer David Ortiz



# Thomas David Martinez (Doc. Nos. 9608, 9682, 9717)

## Genealogical Evidence

**Thomas David Martinez** - 6/22/1950, San Jose, Calif.  
**Thomas Harry Martinez** - Born Nov 21, 1926 in Mancos, CO married to Angie Jaquez Sept 12, 1949 in Las Vegas, NV  
**Juan Santiago Martinez** - Born Mar 13, 1903 in Bayfield, CO married to Maria Manuela de Atocha Archuleta Aug 24, 1924 in Durango, CO  
**Dimas Eustacio Martinez** - Born Mar 29, 1880 in Camero, Del Norte, CO married to Maria Pacifica Romero ca 1901 Ignacio, CO  
**Juan Camillo Martin** - Born Aug 19, 1835 in El Llano de San Juan, Picuris, NM married to Maria Ricarda Medina ca 1859 in Peñasco, NM  
**Juan Ygnacio Martin** - Born on Feb 17, 1798 in El Llano de San Juan, Picuris, NM married to Maria de Jesus Martin ca 1827 in El Llano, Picuris  
**Juan Jose Martin** - Born Jan 6, 1772 in Santa Fe, NM married to Maria Antonia Senteno Feb 11, 1793 Las Trampas, Picuris, NM  
**Eusebio Antonio Martin** - Born Sep 7, 1729 married to Maria Antonia Armijo Feb 7, 1759 Picuris Parish, NM  
**Antonio Martin Serrano** - Born ca 1705 San Juan Parish, NM married to Catarina Villalpando Aug 26, 1728, Embudo, San Juan Parish  
**Francisco (El Ciego) Martin Serrano** - Born Oct 7, 1680 Guadalupe del Paso married to Casilda Contreras ca 1700 New Mexico  
**Pedro Martin Serrano de Salazar** - Born ca 1635 in San Juan Parish, NM married to Juana Aplonia de Arguello ca 1657 in NM  
**Luis Martin Serrano** - Born ca 1592 in Zacatecas, New Spain married to Catalina de Salazar ca 1629 in New Mexico  
 \* **Sargento Hernan Martin Serrano** - Born ca 1558 in Zacatecas, New Spain married to Juana Rodriguez ca 1579 in Zacatecas.

\*(Sargento Serrano is one of the first settlers that came with Onate in 1598, (see Hammond and Rey, Onate Colonizer of New Mexico 1595-1628. The University of New Mexico Press, New Mexico, 1953, Pages 237 and 291).

File Number: SD-01835-29  
(For OSE Use Only)NEW MEXICO OFFICE OF THE STATE ENGINEER  
CHANGE OF OWNERSHIP OF WATER RIGHT (INDIVIDUAL)

## 1. OWNER OF RECORD

Name: Kenneth Marthey Work Phone: \_\_\_\_\_  
 Contact: \_\_\_\_\_ Home Phone: \_\_\_\_\_  
 Address: 5509 Poblano St.  
 City: Albuquerque, NM 87107 State: \_\_\_\_\_ Zip: \_\_\_\_\_

## NEW OWNER

Name: Thomas D. Martinez Work Phone: 916-801-9319  
 Contact: \_\_\_\_\_ Home Phone: 408-245-1759  
 Address: 1064 West Iowa Ave.  
 City: Sunnyvale, CA 94086 State: CA Zip: 94086

## 2. AMOUNT CONVEYED

State Engineer File Number: SD-01835-29  
 Subfile Number 255,259; 258; 274 of Cause Number 7941, 8294  
 Owner of record has conveyed part of said right.  
 (all or part)

Consumptive Use: \_\_\_\_\_ acre-feet per annum  
 Diversion Amount: 2.28 acre-feet per annum 3.0 for 0.76 acres  
 Other: \_\_\_\_\_ (units)

## 3. PURPOSE OF USE

Domestic: \_\_\_\_\_ Livestock: \_\_\_\_\_ Irrigation: ☒ Municipal: \_\_\_\_\_ Industrial: \_\_\_\_\_  
 Commercial: \_\_\_\_\_ Other (specify): \_\_\_\_\_  
 Specific use: \_\_\_\_\_

## 4. PLACE OF USE

0.76 acres of land described as follows:

Subdivision of Section (District or Hydrographic Survey) Section (Map No.) Township (Tract No.) Range Acres Priority

Acagua de Chamita 22 2 258 1724  
1559 Rio Chama 22 3 274 1724  
Hydrographic Survey 22 4 255, 259 1724  
Section 1 \_\_\_\_\_  
Rio Arriba County \_\_\_\_\_

Tract A-2 on  
 Replat for Kenneth Marthey  
 1995 by Noonan

Do Not Write Below This Line

File Number: \_\_\_\_\_ Trn Number: \_\_\_\_\_

Form: wr-02i (Individual) - page 1 of 2

COPY

File Number: \_\_\_\_\_  
(For OSE Use Only)NEW MEXICO OFFICE OF THE STATE ENGINEER  
CHANGE OF OWNERSHIP OF WATER RIGHT (INDIVIDUAL)

## 5. WELLS TO ACCOMPANY CONVEYED RIGHT

Well File No.	Subdivision	Section	Township	Range
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

## 6. CONSENT TO LAWFUL CHANGE IN PLACE AND/OR PURPOSE OF USE

(I, We) the above owner(s) of record, hereby consent to a lawful change in the place and/or purpose of use of the above-described water right:  
(To be completed only if it is an irrigation water right and has been conveyed separate from the land to which it was appurtenant.)

(Signature) \_\_\_\_\_

(Signature) \_\_\_\_\_

## 7. ADDITIONAL STATEMENTS OR EXPLANATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## ACKNOWLEDGEMENT

(I, We) Thomas D. Martinez affirm that the  
(Please Print)  
foregoing statements are true to the best of (my, our) knowledge and belief.

Thomas D. Martinez  
Applicant Signature

Applicant Signature \_\_\_\_\_

State of California  
County of Santa Clara

## NOTARY

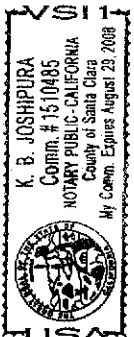
This instrument was acknowledged before me this 24 day of August

A.D., 2006, By Thomas D. Martinez;  
Name of Applicant(s)

Name of Applicant(s) \_\_\_\_\_

My commission expires 8/29/08

K. B. Josphura  
Notary Public



This Change of Ownership form is hereby accepted for filing in accordance with Section 72-1-2.1, NMSA-1978 (1985 Repl. Pamph.), as amended. The acceptance by the Office of the State Engineer does not constitute validation of the right conveyed.

Do Not Write Below This Line

File Number: \_\_\_\_\_

Trn Number: \_\_\_\_\_

Form: wr-02i

page 2 of 2



File No. 00607007 MG

Rio Arriba Title & Escrow

### WARRANTY DEED

Kenneth C. Marthey, an unmarried man

\_\_\_\_\_, for consideration paid, grants to

Thomas D. Martinez, an unmarried man

whose address is 1964 West Iowa Ave, Sunnyvale, Ca 94086

the following described real estate in RIO ARRIBA County, New Mexico:

Tract "A-2":

A certain tract or parcel of lying and being situate within Exc. 1, PC 227, P3, Exc. 1, PC 251, P1, Exc. 1, PC 227, P2, in Section 9, T21N R08E, NMPM, in the vicinity of Chamita, County of Rio Arriba, State of New Mexico.

Containing 1.241 acres, more or less.

According to the plat of survey entitled "Replat for Kenneth C. Marthey", filed for record July 25, 1995 in Book of Plats O-556 at page 3667, records of Rio Arriba County, New Mexico.

Subject to: **Reservations, restrictions and easements of record and taxes for the year 2006 and thereafter.**

with warranty covenants.

Witness my hand this 24th day of July, 2006.

  
Kenneth C. Marthey

File No. 00607007 MG

Rio Arriba Title &amp; Escrow

## WARRANTY DEED

Kenneth C. Marthey, an unmarried man

, for consideration paid, grants to

Thomas D. Martinez, an unmarried manwhose address is, 1064 West Iowa Ave, Sunnyvale, Ca 94086the following described real estate in RIO ARRIBA County, New Mexico:

## Tract "A-2":

A certain tract or parcel of lying and being situate within Exc. 1, PC 227, P3, Exc. 1, PC 251, P1, Exc. 1, PC 227, P2, in Section 9, T21N R08E, NMPM, in the vicinity of Chanita, County of Rio Arriba, State of New Mexico.

Containing 1.241 acres, more or less.

According to the plat of survey entitled "Replat for Kenneth C. Marthey", filed for record July 25, 1995 in Book of Plats O-556 at page 3667, records of Rio Arriba County, New Mexico.

Subject to: **Reservations, restrictions and easements of record and taxes for the year 2006 and thereafter.**

with warranty covenants.

Witness my hand this 24th day of July, 2006.

Kenneth C. Marthey  
Kenneth C. Marthey

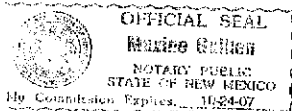
## ACKNOWLEDGEMENT FOR NATURAL PERSONS:

State of New Mexico )  
 ) SS.  
County of Rio Arriba )

This instrument was acknowledged before me on the 24th day of July, 2006, by Kenneth C. Marthey, an unmarried manMy commission expires: **24 October 2007**

Maxine Guillen  
Notary Public

(Seal)



I, THE UNDERSIGNED HEREBY CERTIFY THIS TO  
BE A FULL, TRUE AND CORRECT COPY OF THE  
ORIGINAL THEREOF.

RIO ARRIBA TITLE AND ESCROW COMPANY, INC.  
MAXINE GUILLEN, PROCESSOR/CLOSER

SHORT FORM WARRANTY DEED

Form SDO01NM Rev. 02/10/99

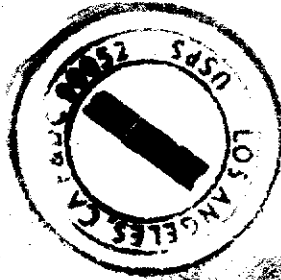
Thomas Martinez  
4160 Duquesne Ave. #4  
Culver City, CA 90232

**RECEIVED**  
AT SANTA FE

JUN 14 2010

MATTHEW J. DYKMAN  
CLERK

Office of the Clerk  
United States District Court  
106 S. Federal Place  
Santa Fe, N.M. 87501



8750131902

